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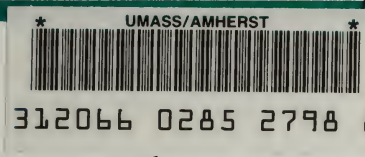
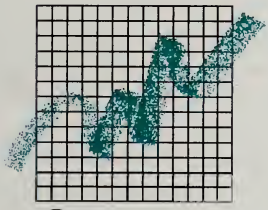



# Choosing a Name for Your Business



CORPORATIONS

*Published by*
**William Francis Galvin**
Secretary of the Commonwealth
Corporations Division

# Choosing a Name for Your Business

One of the most significant decisions you must make in setting up a new business is choosing a name. Your name is one of your most important business assets and should be chosen carefully.

This brochure describes three types of business names, outlines the research you should do before choosing a name, and defines filing requirements, as well as how to register a service or trademark.

## What is the difference between a trade name and a trademark?

Before you select your business name, you need to understand how the kinds of business names differ. Names fall into three categories:

- **Trade names** identify a *business*, e.g., the "Coca Cola Company" or "Computaire Services." Any type of business may call itself a company. See the chart at right for business types.
- **Corporate names** identify *corporations*, e.g. "Cabot Corporation" or "Marketing Concepts Inc." The words "Incorporated," "Corporation" or "Limited" or their abbreviations must appear in a corporate name and may not appear in the name of an unincorporated company.
- **Trademarks** are any word, name, symbol or device, or any combination of these used to identify the goods of a business and distinguish those goods from the goods of others. The word "Kleenex" is a trademark. Similarly, there are **service marks** which may be used to identify and distinguish a business which provides a *service* rather than goods. For example, the word "Greyhound" is a service mark for transportation services.

## Before you choose your name

When choosing a name for your business you might want to begin by looking at types of names that are already being used by businesses similar to your own. There are several sources of such information. You can find lists of business names at the Corporations Division of the Secretary of the Commonwealth, your local city or town hall, in the library, in relevant trade journals and even in telephone books.

As you are considering possible names you must choose a name that is not already being used by another business. Do everything you reasonably can to

ensure that yours will be the only business of your type using a particular name.

## How to get help from the Corporations Division

To check to see if a name is available for a corporation or if the same, or a very similar name, is being used by another corporation, contact the Secretary of the Commonwealth's Corporations Division at (617) 727-9640. This division maintains an index of all the corporation names incorporated or registered to do business in the Commonwealth of Massachusetts.

A name inquiry may be made by telephone. Such an inquiry is only preliminary and *does not guarantee availability.* A name can be reserved for 30 days by paying a $15.00 fee in person or by mail. Upon payment of an additional $15.00 fee, the reservation may be extended another 30 days.

## What if another corporation is using the name you want to choose?

You will be prohibited from using a name if another corporation is already using it or one that is very similar. An exception may be made if you are able to obtain a letter of consent from the other corporation giving you permission to use the name.

## Filings required after

| Type of Business |
|---|
| *General Partnership* (including true surname of any partner) |
| *General Partnership* (not including true surname of any partner) |
| *Limited Partnership* |
| *Limited Liability Company* |
| *Limited Liability Partnership* |
| *Business Trust* |
| *Sole Proprietorship* (with a different name than owner, e.g. Century Co.) |
| *Sole Proprietorship* (doing business under owner's complete name, e.g. John Smith Co.) |

*DBA

**Nam

## After you choose your name

What you must do after you have chosen a name for your business is determined by the type of business you have set up. Use the chart below as a check list to determine (1) whether you must file organizational forms with the state, and (2) whether you must file a business certificate in your local community. Remember that many businesses are regulated and that you may need to apply for state and/or local permits or licenses before you begin.

The column labeled "DBA at Local City or Town Hall" refers to a filing known as a business certificate. This is also called a "DBA" which stands for "doing business as." Your business must file a "DBA" with the municipal clerk in the city or town where you maintain an office if you conduct business under any title other than the real name of the person, corporation or limited partnership. The real name of the corporation or limited partnership is the name as filed with the Secretary of the Commonwealth. For information concerning fees, please contact the appropriate city or town clerk.

Your filing of a business certificate at the local level does not protect your name. A business certificate primarily allows consumers and/or creditors to identify the names of the actual owners of a business. Therefore, a city or town clerk may even accept more than one certificate with an identical business name in order to provide this public record.

## your name is chosen

| | Filing with the Secretary of Comm. | Filing DBA* at local city or town hall |
|---|---|---|
| | n/a | n/a |
| | n/a | ✔ |
| ✔ Certificate of Ltd. Partnership | | n/a |
| ✔ Certificate of Organization | | n/a |
| ✔ Certificate of Organization | | n/a |
| ✔ Declaration of Trust | | ✔ ** |
| | n/a | ✔ |
| | n/a | n/a |

Business certificate known as "doing business as" (see above)
es of trustees must be filed

## Registering your trademark – state and federal

You are not required to register your trademark or service mark with any governmental agency. Trademarks are protected under common law. However, by registering your mark, you may gain certain exclusive ownership benefits under statutory law. There are both state and federal registrations. Federal registrations take six months to a year to become effective. State registrations are usually processed in a matter of days. Therefore, you may want to register at the state level to protect your mark during the federal application period.

- **State registration** – You cannot register a *trade name*, as such, in Massachusetts. However, you may register a part of your name and in certain instances even the entire name as a ***trademark*** or ***service mark***.

  A mark may not be reserved prior to its use. A mark must be *in use* in Massachusetts, even for a very brief period, before it may be registered. The mark is then registered by filing the appropriate trademark or service mark registration application form with the Corporations Division. The fee for filing is $50.00. The registration is effective for ten years and is renewable. Registration provides evidence of ownership of the mark.

- **Federal registration** – The federal government does not provide for registration of a trade *name*, but you may register a ***trademark or service mark***. A mark is registered by filing the appropriate registration application form with the U.S. Patent Office. The forms differ according to the type of business. Be sure to request forms on behalf of an individual, partnership or corporation, whichever is applicable to your situation. Registration may protect your mark nationally. Forms, as well as a helpful pamphlet entitled *General Information Concerning Trademarks,* may be obtained from:

  The Commissioner of Patents
  Washington, D.C. 20231
  (703) 308-4368 or

  Federal Information
  1-800-347-1997

## Required filing fees

| | |
|---|---|
| Reservation of Corporate Name | $15.00 |
| Reservation Extension *(additional 30 days)* | 15.00 |
| State Registration of Trademark or Service Mark | 50.00 |
| Articles of Organization: | |
| -Corporate *(minimum)* | 200.00 |
| -Limited Partnership | 200.00 |
| -Business Trust | 200.00 |
| Limited Liability Company | 500.00 |
| Limited Liability Partnership | 500.00 |

## For further information contact:

**Corporations Division**
One Ashburton Place, 17th floor
Boston, Massachusetts 02108
Telephone: (617) 727-9640
Website: www.state.ma.us/sec/cor

or

**Citizen Information Service**
One Ashburton Place, Room 1611
Boston, Massachusetts 02108
Telephone: (617) 727-7030
Toll-free: 1-800-392-6090 *(MA only, TTY also)*
TTY: (617) 878-3889
Fax: (617) 742-4528
E-mail: cis@sec.state.ma.us
Website: www.state.ma.us/sec/cis

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**William Francis Galvin**
Secretary of the Commonwealth